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Via ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WC Docket No. 10-90

Dear Ms. Dortch:

On Tuesday, October 18, 2016, Kenneth Johnson of Herman & Whiteaker, LLC, Patrick Sherrill, President and Chief Executive Officer, and Jenifer Vellucci, Vice President and Chief Financial Officer, of Accipiter Communications Inc. (“Accipiter”), had a telephone conversation with Carol Matthey and Suzanne Yelen of the Federal Communications Commission (“FCC” or “Commission”) Wireline Competition Bureau (“WCB”) regarding the pending November 1, 2016 A-CAM and broadband service support election deadline. Specifically, Accipiter discussed its broadband buildout obligations pursuant to the CAF-BLS mechanism based on their FCC-calculated broadband deployment percentage of 60 percent. Accipiter noted that it serves in an area also served by a large cable competitor. This competitor serves less than two percent of the geographical area of Accipiter’s vast Arizona study area. This competitor also provides broadband service to close to a third of the housing units in the study area where Accipiter does not serve, and these areas are subdivisions where the competitor has established HOA contracts making Accipiter’s service into these subdivisions financially infeasible. Between Accipiter and its cable competitor, 91 percent of the housing units in Accipiter’s study area receive at least 10/1 broadband service.

Accipiter noted that if it were to choose the FCC’s CAF-BLS support route, rather than the A-CAM, it could incur significant costs to serve the last 9 percent of housing units in the

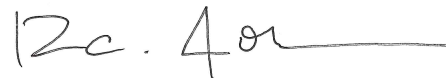
study area that currently lack 10/1 broadband.¹ Accipiter stated that there simply are not enough unserved housing units² for Accipiter to serve to ever reach the Commission's required deployment threshold. In other words, the FCC's math will prevent Accipiter from *ever* serving over 80 percent of the housing units in its service area unless it targets areas that already have broadband service from a competitor that has structured formidable competitive barriers in those areas.

Accipiter requested that the FCC calculate its broadband deployment ratio in another manner. Accipiter noted that the FCC's data shows that 91 percent of the housing units in Accipiter's study area have 10/1 broadband available. If the FCC were to exclude the housing units served exclusively by the competitor, then Accipiter would serve 87 percent of the remaining housing units in the study area.

Accipiter also requested that the FCC delay Accipiter's election date. Accipiter discussed details of its bankruptcy proceeding and its unusual position that its current executives would be making an election that could very likely impact a potential buyer of the bankrupt estate that might be closing the transaction in early 2017.

Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,



Kenneth C. Johnson

Counsel for Accipiter Communications, Inc.

cc (via email): Carol Matthey
Suzanne Yelen

¹ Accipiter pointed out that the A-CAM option, while providing certainty, would result in a substantial loss of broadband support as compared to projected levels of support pursuant to the CAF-BLS mechanism. However, the additional costs associated with the CAF-BLS deployment obligation compared to the A-CAM deployment obligation could potentially exceed the A-CAM revenue deficit.

² The remaining unserved housing units are the least dense and highest cost locations in Accipiter's study area and Accipiter estimates that 75 percent of these housing units do not have access to the public power grid.